



[6450-01-P]

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CD-008]

Petition for Waiver and Notice of Granting the Application for Interim Waiver of ASKO Appliances Inc. from the DOE Residential Clothes Dryer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Petition for Waiver, Granting of Application for Interim Waiver, and Request for Public Comments.

SUMMARY: This notice announces receipt of and publishes the ASKO Appliances Inc. (ASKO) petition for waiver from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of residential clothes dryers. The waiver request pertains to ASKO's specified models of condensing residential clothes dryers. The existing test procedure does not apply to condensing clothes dryers. In addition, today's notice grants ASKO an interim waiver from the DOE test procedure applicable to residential clothes dryers. DOE solicits comments, data, and information concerning ASKO's petition.

DATES: DOE will accept comments, data, and information with respect to ASKO's Petition until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by case number CD-008, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: AS_Waiver_Requests@ee.doe.gov. Include the case number [Case No. CD-008] in the subject line of the message.
- Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Petition for Waiver Case No. CD-008, 1000 Independence Avenue, SW, Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.
- Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Docket: For access to the docket to review the background documents relevant to this matter and comments received, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW (Resource Room of the Building Technologies Program), Washington, DC, 20024; (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. E-mail: Bryan.Berringer@ee.doe.gov.

Mr. James Silvestro, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 286-4224. E-mail: James.Silvestro@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential clothes dryers that are the focus of this notice.¹ Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). The test procedure for clothes dryers is contained in 10 CFR part 430, subpart B, appendix D.

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

DOE's regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or if the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(a)(2); 430.27(g). An interim waiver remains in effect for a period of

180 days or until DOE issues its determination on the petition for waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h).

Please note that on January 6, 2011, DOE published a test procedure final rule (76 FR 1032) to include provisions for testing ventless clothes dryers. The rule became effective on February 7, 2011, and requires compliance on or after January 1, 2015. Ventless clothes dryers manufactured on or after January 1, 2015, must be tested with the new DOE test procedure.

II. Petition for Waiver of Test Procedure

On June 19, 2013, ASKO filed a petition for waiver and an application for interim waiver from the test procedure applicable to residential clothes dryers set forth in 10 CFR Part 430, subpart B, appendix D. ASKO seeks a waiver from the applicable test procedure for its Bosch T744C, T754C, and T794C condensing clothes dryers because, ASKO asserts, design characteristics of these models prevent testing in accordance with the currently prescribed test procedure, as described in greater detail in the following paragraph. DOE granted similar waivers for the same type of clothes dryer to Bosch (BSH) (76 FR 33271, June 8, 2011), Miele Appliance, Inc. (Miele) (60 FR 9330, February 17, 1995; 76 FR 17637, March 30, 2011), LG Electronics (73 FR 66641, November 10, 2008), Whirlpool Corporation (74 FR 66334, December 15, 2009), and General Electric (75 FR 13122, March 18, 2010). ASKO claims that its condensing clothes dryers cannot be tested pursuant to the DOE procedure and requests that the same waiver granted to other manufacturers be granted for ASKO's T744C, T754C, and T794C models.

In support of its petition, ASKO claims that the current clothes dryer test procedure applies only to vented clothes dryers because the test procedure requires the use of an exhaust restrictor on the exhaust port of the clothes dryer during testing. Because condensing clothes dryers operate by blowing air through the wet clothes, condensing the water vapor in the airstream, and pumping the collected water into either a drain line or an in-unit container, these products do not use an exhaust port like a vented dryer does. ASKO plans to market its condensing clothes dryers for situations in which a conventional vented clothes dryer cannot be used, such as high-rise apartments and other buildings where exhaust venting is not practical or is cost prohibitive.

The ASKO petition requests that DOE grant a waiver from the existing test procedure to allow for the sale of three new models (T744C, T754C, and T794C) until DOE prescribes final test procedures and minimum energy conservation standards appropriate to condensing clothes dryers. Similar to the other manufacturers of condensing clothes dryers, ASKO did not include an alternate test procedure in its petition.

III. Application for Interim Waiver

ASKO also requests an interim waiver from the existing DOE test procedure for immediate relief. Under 10 CFR 430.27(b)(2), each application for interim waiver “shall demonstrate likely success of the Petition for Waiver and shall address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver.” An interim waiver may be granted if it is determined that the

applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or if the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. 10 CFR 430.27(g).

DOE has determined that ASKO's application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic hardship ASKO might experience absent a favorable determination on its application for interim waiver. DOE understands, however, that the ASKO condensing clothes dryers have a feature that prevents testing them according to the existing DOE test procedure. In addition, as stated in the previous section, DOE has previously granted waivers to BSH, Miele, LG, Whirlpool and GE for similar products. It is in the public interest to have similar products tested and rated for energy consumption on a comparable basis, where possible. Further, DOE has determined that ASKO is likely to succeed on the merits of its petition for waiver and that it is desirable for policy reasons to grant immediate relief.

IV. Interim Waiver Granted

For the reasons stated above, DOE grants ASKO's application for interim waiver from testing of its condensing clothes dryer product line. Therefore, *it is ordered that*:

The application for interim waiver filed by ASKO is hereby granted for ASKO's T744C, T754C, and T794C condensing clothes dryers. Until a final decision is made on its petition for

waiver, ASKO shall not be required to test its T744C, T754C, and T794C condensing clothes dryers on the basis of the test procedure under 10 CFR Part 430 subpart B, appendix D.

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may or may not be manufactured by the petitioner. ASKO may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of clothes dryers for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR 430.62.

Further, this interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

V. Summary and Request for Comments

Through today's notice, DOE grants ASKO an interim waiver from the specified portions of the test procedure applicable to ASKO's T744C, T754C, and T794C condensing clothes dryers and announces receipt of ASKO's petition for waiver from those same portions of the test procedure. DOE publishes ASKO's petition for waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information.

DOE solicits comments from interested parties on all aspects of the petition. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Mr. Michael Wasson, ASKO Appliances, Inc., P.O. Box 940609, Plano, TX 75094-0609. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: one copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on July 3, 2013.

Kathleen B. Hogan
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy

June 19, 2013

Dr. David Danielson
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Re: Petition of Waiver and Application for Interim Waiver, ASKO Condenser Dryers

Dear Assistant Secretary Danielson,

ASKO Appliances Inc. (ASKO) hereby submits this Petition of Waiver and Application for Interim Waiver, pursuant to 10 CFR 430.27, for new condenser clothes dryers.

ASKO manufactures washers, dryers, and dishwashers sold in the United States.

This petition and application based on the following major points:

1. ASKO's petition for new dryer base models T744C, T754C, and T794C for introduction 2013.
2. Petitions for similar products issued to manufactures such as Miele, Bosch, and Whirlpool.
3. ASKO's condenser dryers are the same concept and principle, except for external venting, in relation to the test procedures in 10 CFR, part 430, subpart B, appendix D Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
4. The test procedure does not define or mention measuring the energy for condenser dryers.

Additional information is that the same test performed on condenser and vented dryers and condenser dryers have virtually the same energy use as vented dryers.

The lack of relief would impose an economic hardship by not allowing ASKO to compete with competition with similar products in USA.

The petition and application warrants approval on the grounds of design characteristics that prevent the testing according to 10 CFR, part 430, subpart B, appendix D.

ASKO would be available for any further discussions on the design and use of condenser dryers with DOE.

Asko will notify all Clothes dryer manufactures of domestically marketed units known to ASKO of this petition and application by mail.

Sincerely,
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